64. (Amended) The method of claim 63, wherein said mutant retrovirus is a multidrug-resistant mutant retrovirus.

65. (Amended) The method of claim 63, wherein said mutant retrovirus is a multidrug-resistant HIV.

66. (Amended) The method of claim 63, wherein said mutant retrovirus is a multidrug-resistant HIV-1.

REMARKS

Amendments To The Claims

The claims have been amended to point out more particularly and claim more distinctly the present invention. In particular, claim 47 has been amended to recite additional embodiments of substituent A of the compound of formula (I). This amendment is supported by the specification at, for example, page 9, line 24, through page 10, line 1. Claims 64-66 have been amended to remove multiple claim dependencies. Claims 65 and 66 have been further amended by deletion of the superfluous term "retrovirus." No new matter has been added by way of these amendments. Separate documents setting forth the precise changes to the claims, as well as the text of all pending claims, are enclosed herewith.

Restriction Requirement

The Office has set forth a restriction requirement. In particular, the Office requires Applicants to elect one of the following groups:

(I) claims 1-19, drawn to an assay to determine the biological fitness of a target to a biological mutant,

(II) claims 20-38, drawn to a method of administering a therapeutic compound,

(III) claims 39, 41, 43 and 44, drawn to an assay to determine the biological fitness of a mutant target to HIV,

(IV) claims 40, 42 and 45, drawn to a method of administering a therapeutic compound that inhibits a mutated target of HIV,

(V) claim 46, drawn to a continuous fluorogenic assay,

(VI) claims 47-62, drawn to a method of preventing the development of drug resistance, and

(VII) claims 63 and 64 [*sic*--63-66], drawn to a method of treating a mutant retroviral infection using the compound or composition of claim 47.

According to the Office, Groups I-VII do not relate to a single general inventive concept under PCT Rule 13.1 because the groups do not share a common technical feature.

The Office Action does not address the current standing of claims 65 and 66, which are directed towards a method of treating a multi-drug resistant HIV using the compound recited in claim 47. For purposes of this response, Applicants have assumed that claims 65 and 66 are part of Group VII. In addition, Applicants note that claim 48 was canceled in the Preliminary Amendment filed December 21, 2000.

Election in Response to Restriction Requirement

Applicants hereby elect, with traverse, the claims of Group VI (i.e., claims 47 and 49-62). In regard to the election, Applicants respectfully submit that the claims of Group VII, namely claims 63-66, should be examined with the claims of Group VI for the reasons set forth below.

Discussion of the Restriction Requirement

This application is a U.S. national stage application based on the international application PCT/US99/14119. Under PCT Rule 13 (37 C.F.R. § 1.475), a group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. See, e.g., M.P.E.P. § 1893.03(d). The expression "special technical features" is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art. *Id.*

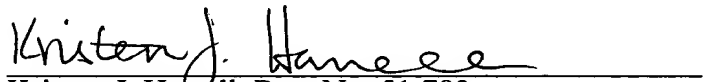
The basis for the restriction requirement is insufficient in that the Office Action does not establish a lack of unity of invention between all of the groups in relation to each other. The analysis provided in the Office Action is limited solely to comparing Groups II-VII to Group I (see page 3, paragraph 5, in Office Action). Moreover, the designation of Groups III and IV is inconsistent with the species election of Groups I and III. More specifically, the species election distinguishes a retrovirus, whereas Group III is directed towards using the assay of Group I for HIV (i.e., a retrovirus). Similarly, Group IV is directed towards the method of Group II to treat HIV (i.e., a retrovirus). At the very least, Groups I and III and Groups II and IV should be combined. This does not mean that the claims of these groups necessarily stand and fall together, but that the overlapping relevance of subject matter mitigates against the restriction requirement between these groups.

Pending claims 47 and 49-66 are linked so as to form a single general inventive concept. In other words, claims 47 and 49-66 share a common special technical feature, which defines the contribution that each claim makes over the prior art. For example, pending claims 47 and 49-66 are directed towards a method of preventing the development of drug resistance in an HIV-infected mammal comprising administering the compound of formula (I). Given the special technical feature common to all of the claims, a search for prior art with respect to either Group VI or Group VII would likely uncover references that would be considered by the Examiner during the examination of the other group. More specifically, the nature of the claims is such that references considered by the Examiner with respect to the claims of Group VI would almost certainly be considered by the Examiner with respect to the claims of Group VII and *vice versa*. Furthermore, the fact that the subject matter of Group VII substantially overlaps with the subject matter of Group VI (*see, e.g.*, claims 47, 61 and 62 relative to claims 65 and 66) is at least *prima facie* evidence that there would be no undue burden on the Examiner to examine the claims of at least Groups VI and VII together. This does not mean that the claims necessarily stand and fall together, but that the overlapping relevance of references remains and mitigates against the restriction requirement.

Conclusion

Under the circumstances, Applicants request the withdrawal of the restriction requirement, in whole or in part, and consideration of Group VII, namely claims 63-66, in addition to Group VI. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned agent.

Respectfully submitted,



Kristen J. Hansell, Reg. No. 51,783
One of the Agents for Applicants
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson
Chicago, Illinois 60601-6780
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

Dated: December 3, 2002

In re Erickson et al.
Application No. 09/720,276

CERTIFICATE OF MAILING

I hereby certify that this AMENDMENT AND RESPONSE TO RESTRICTION REQUIREMENT (along with any documents referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231.

Date: Dec 3, 2002 Kathleen M. Grant